

OCT 14 1986

In the Matter of)
)
1984 Cable Royalty)
Distribution Proceedings)

MOTION FOR SUMMARY DISPOSITION OF NAB,
MULTIMEDIA AND MPAA PHASE II CLAIMS IN PROGRAM
SUPPLIER CATEGORY

As the Tribunal is aware, these parties have split up the Program Suppliers allocation each year since 1979. NAB, on behalf of television station syndicators, received the following Phase II awards, either through hearing (indicated by asterisk) or through settlement:

1979*	0.8%
1980	0.8%
1981*	0.8%
1982	0.8%
1983*	0.8%

Multimedia has received the following awards, all through litigation:

1979	1.6%
1980	1.6%
1981	1.6%
1982	1.0%
1983	1.0%

MPAA-represented syndicators have consistently received the remainder of the Program Supplier royalties.^{1/}

The litigation over the past several years would not have been necessary but for MPAA's refusal to accept the reasonableness of the Tribunal's decisions, as affirmed by the Court of Appeals. MPAA has once again this year refused to settle with NAB or Multimedia on the basis of the Tribunal's most recent allocations. The three parties have filed direct cases that bear a very close resemblance to their 1983 cases. The Tribunal and the parties can look forward to a virtual rerun of the same kind of testimony and cross-examination that have consumed days and days of hearings in the past.

The burden of these proceedings falls most heavily on NAB and Multimedia, whose litigation expenses represent a very high percentage of their tiny awards, compared with the miniscule portion of MPAA's over-98% award that is eaten up by its

^{1/} Spanish International Network received a separate 0.7% award in 1979 and 1980, settled for 0.7% in 1981 and 1982, and is represented by MPAA in 1983 and 1984. Mutual of Omaha received a separate 0.1% award in 1979, and has been represented by MPAA in 1980, 1981, 1982, 1983 and 1984.

litigation costs. But despite its consistent failures over the past five proceedings to drag the NAB and Multimedia minnows into its shark-infested viewing-study net, MPAA is seeking once again to have the Tribunal do the job for it. In plain effect, MPAA is using the hearing process not as a forum for requesting the Tribunal to decide new issues or consider new facts or arguments, but as a weapon to bludgeon the smaller claimants into submission.

Now is the time to bring an end to this wasteful process. NAB and Multimedia request that the Tribunal (1) declare, pursuant to Sections 301.51(j) and (l) of its rules, that an oral hearing on the respective claims of NAB, Multimedia and MPAA would be unnecessary, and, (2) on the basis of the written direct case evidence already submitted, make the following awards of the Program Suppliers Phase I Allocation:


NAB	0.8%
Multimedia	1.0% ^{2/}
MPAA	98.2% ^{3/}

^{2/} Multimedia has requested 1.2% of the Program Supplier award, based primarily on the fact that new Multimedia programs were syndicated for the first time in 1984. Solely for the purpose of avoiding the burdensome and unwanted costs of litigation, and without prejudice to its right to seek a different award based on an appropriate showing of new facts in future proceedings, or in the instant proceeding should this Motion be denied, Multimedia would be willing to accept a 1.0% award as part of the summary disposition of the 1984 Phase II Proceeding.

^{3/} This percentage may be subject to further downward adjustments on the basis of the Tribunal's final decisions with respect to the "Little House on the Prairie" program, Warner's claim for music video programs as syndicated
(Footnote continued)

Respectfully submitted,

NATIONAL ASSOCIATION
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October 14, 1986

3/ (continued)

respect to the "Little House on the Prairie" program,
Warner's claim for music video programs as syndicated
programs, and NAB's and Multimedia's pending motions to limit
MPAA's claim for failure to provide underlying documenta-
tion.

CERTIFICATE OF SERVICE

I, Linda Padgett hereby certify that I have, on this 14th day of October, 1986, caused copies of the attached "Motion for Summary Disposition of NAB, Multimedia and MPAA Phase II Claims in Program Supplier Category" to be mailed, postage prepaid, to the following parties:

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*Hand Delivered

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OCT 14 1986

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October 14, 1986

BY HAND

The Honorable Edward W. Ray
Chairman
Copyright Royalty Tribunal
1111 - 20th Street, N.W.
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Dear Chairman Ray:

Transmitted herewith for filing with the Tribunal, on behalf of the National Association of Broadcasters (NAB) and Multimedia Entertainment, Inc. are an original and five copies of the Motion for Summary Disposition of NAB, Multimedia and MPAA Phase II Claims in Program Supplier Category.

In the event there are any questions concerning this matter, please communicate with this office.

Very truly yours,



John I. Stewart, Jr.

Enclosures

cc: All Counsel